

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 14180US02)**

In the Application of:

Ed H. Frank, et al.

Serial No. 10/658,725

Filed: September 9, 2003

For: METHOD AND SYSTEM FOR
PROVIDING AN INTELLIGENT
SWITCH FOR BANDWIDTH
MANAGEMENT IN A HYBRID
WIRED/WIRELESS LOCAL AREA
NETWORK

Examiner: Simon A. Goetze

Group Art Unit: 2617

Confirmation No. 2800

Electronically filed on 22-AUG-2007

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on May 24, 2007 (hereinafter, the Final Office Action) with a period of reply through July 24, 2007. The Applicant also requests review of the arguments stated on page 2 of the Advisory Office Action mailed on August 8, 2007 (hereinafter, the Advisory Office Action). No amendments are being filed with this request.

This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

REMARKS

The present application includes pending claims 1-25, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,978,144, issued to Choksi (hereinafter, Choksi), in view of U.S. Patent Application Publication No. 2003/0134650, issued to Sundar, et al. (hereinafter, Sundar). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

I. Examiner's Response to Arguments in the Final Office Action

The Final Office Action states the following in the "Response to Arguments" section:

Choksi is discussing a method and a system for managing real-time bandwidth in a wireless network. Choksi discusses the bandwidth allocation controller receiving a call admission request from the network. Therefore disclosing the limitation of "receiving from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session." Choksi further discusses processing the call admission request by verifying if there is available bandwidth to create the communication, and that the radio link can be an 802.11 based WLAN link. Therefore discloses "responsive to said first messaging protocol message, determining an available communication bandwidth for at least a portion of the hybrid wired/wireless local area network."

See the Final Office Action at page 3. The Applicant points out that the "Response to Arguments" section is simply summarizing the arguments previously mentioned in the non-final Office Action mailed on December 18, 2006. In this regard, the Final Office Action has not responded to Applicant's specific arguments stated in pages 13-19 of the March 12, 2007 response.

The Applicant points out that Choksi relates only to wireless cell networks and does not relate to hybrid wired/wireless local area network (LAN), as recited in Applicant's claim 1, for example. Furthermore, Choksi does not disclose or suggest receiving of a protocol message by an access point or a switch within the hybrid wired/wireless LAN. In fact, Choksi does not disclose any signal processing with regard to an access point or a switch.

The Final Office Action further states the following:

It is understood in the art, that once a connection is allowed, the access point would be notified, but Choksi fails to specifically disclose this limitation.

See the Final Office Action at page 3. Initially, regardless of whether this statement is true or not, the Applicant notes that it appears that at least claim 1 is being rejected

based on inherency. That is, the Final Office Action's statement above implies that once a connection is allowed, it is inherent that the access point would be notified. The Applicant maintains the inherency challenge and argument stated in pages 12-14 of the July 19, 2007 response. Since the Examiner did not respond accordingly by providing one or more supporting references to support the Examiner's inherency claim, the Applicant respectfully submits that the rejection should be withdrawn for this reason alone (see, MPEP § 2112)

REJECTION UNDER 35 U.S.C. § 103

II. The Proposed Combination of Choksi and Sundar Does Not Render Claims 1-25 Unpatentable

The Applicant turns to the rejection of claims 1-25 as being unpatentable over Choksi in view of Sundar. The Applicant notes that the proposed combination of Choksi and Sundar forms the basis for all of the pending rejections.

A. Independent Claim 1

With regard to the rejection of independent claim 1 under 103(a), the Applicant submits that the combination of Choksi and Sundar does not disclose or suggest at least the limitation of "receiving from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session," as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

Choksi discloses a method for providing bandwidth management in a hybrid wired/wireless local area network (*Abstract*), the method comprising:

receiving from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session (*call admission request is submitted - Column 7, Lines 5-15 and 33-41*);

See the Final Office Action at page 5. Initially, the Examiner is reminded that the Applicant's claim 1 relates to a method for providing bandwidth management in a **hybrid wired/wireless local area network (LAN)**. However, the Examiner is relying for support on Choksi, which discloses a method and system for managing real-time bandwidth requests in a **wireless network** that includes receiving a request for a connection for bandwidth of a cell of a wireless network. See Choksi at *Abstract*. In this regard, **Choksi relates only to wireless cell networks and does not relate to a hybrid wired/wireless LAN.**

With regard to the first claim limitation stated above, the Examiner is relying on the following citations from Choksi:

Referring to FIG. 3, the method begins at state 160 in which the bandwidth request control is idle while there are no requests to be processed. In response to a bandwidth request for a connection, idle state 160 transitions to step. At

step 162, the type of the request is determined. The request may be a handoff request, a call admission request, an additional bandwidth request or any other suitable type of request for bandwidth for a wireless connection. Proceeding to step 162, a QoS policy is retrieved for the connection. The QoS policy may be retrieved from a SLA or other suitable database or node of the communications network 10.

FIG. 4 illustrates a method for bandwidth allocation control in accordance with one embodiment of the present invention. In this embodiment, as previously described in connection with FIG. 3, a single bandwidth request control is used to process call handoff, call admission and additional bandwidth requests. The bandwidth request control includes the call bandwidth and call handoff admission controls 72 and 74 and/or the functionality, thresholds and queues of the controls 72 and 74.

See Choksi at col. 7, lines 5-15 and 33-41. Figure 3 of Choksi illustrates a method for queuing a bandwidth request for allocation **in a wireless cell network**, and Figure 4 of Choksi illustrates a method for bandwidth allocation control **within the wireless cell network**. The Applicant points out that **Choksi, including the above citation of Choksi, does not disclose or suggest receiving by an access point or a switch, a messaging protocol message for establishing a communication session**, as recited in Applicant's claim 1. In fact, **Choksi does not disclose or suggest any signal processing with regard to an access point or a switch within a hybrid wired/wireless LAN**, as recited in Applicant's claim 1. Sundar does not overcome the deficiencies of Choksi and it is also silent as to receiving from an access point or a switch, a messaging protocol message for establishing a communication session, as recited by the Applicant in independent claim 1. Therefore, the proposed combination of Choksi and Sundar does not disclose or suggest at least the limitation of "receiving from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session," as recited by the Applicant in independent claim 1.

Furthermore with regard to the rejection of claim 1, **the Examiner concedes that Choksi fails to disclose the notification to the first access point of the communication system to commence the connection**. See the Final Office Action at page 5. The Examiner then relies on Sundar and states the following:

In related prior art, Sundar et al. discloses a call connection management system for hybrid wired/wireless (WWAN and WLAN) networks which performs call setup functions such as channel assignment based upon requests from users. During the call connection setup, initiated by, for example, a handoff scenario, the service BSC informs the desired BSC of the desire to handoff, and once the operation is the complete, acknowledgements are returned to the initiating parties (*Figure 12 - Page 6, Paragraphs 0074-0075*).

See *id.* The Applicant points out that even though Sundar discloses that the service BSC informs the desired BSC of the desire to handoff, **Sundar fails to disclose or suggest that an access point is notified of allocated bandwidth using a messaging protocol message**, as recited by the Applicant in claim 1. The Applicant is confused as to why the Examiner is relying on Sundar as **Sundar clearly does not**

disclose or suggest any access point notification. Therefore, the proposed combination of Choksi and Sundar does not disclose or suggest at least the limitation of "notifying said first access point of said allocated bandwidth using at least a second messaging protocol message," as recited by the Applicant in independent claim 1.

Accordingly, the proposed combination of Choksi and Sundar does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Applicant submits that claim 1 is allowable. Independent claims 9 and 17 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 9 and 17 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-8, 10-16 and 18-25

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 9 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Choksi in view of Sundar has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-8, 10-16 and 18-25 depend from independent claims 2-8, 10-16 and 18-25, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-25.

III. Conclusion

The Applicant respectfully submits that claims 1-25 of the present application should be in condition for allowance at least for the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 22-AUG-2007

By: 

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